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U.S. DISTRICT COURT  
DISTRICT OF NEW MEXICO

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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JAMES SEABA and CORY PHILLIPS,

Plaintiffs,

v.

MESOSYSTEMS TECHNOLOGY, INC.,

Defendant.

*Alberto A. León*  
Attorney at Law

NO. 02-CV-103 LH/RHS

**DEFENDANT'S MOTION FOR EXPEDITED RULING**

Defendant, MesoSystems Technology, Inc. ["MesoSystems"], by and through its attorneys of record, Bauman, Dow, McIntosh & León, P.C. (Alberto A. León) respectfully moves this Court for an expedited ruling on the remaining pending motions in this matter. As grounds therefore MesoSystems states:

1. MesoSystems filed its Motion to Dismiss Plaintiffs' Complaint and for Attorneys' Fees and Costs as a Sanction for Plaintiffs' Abuse of the Discovery Process on April 22, 2003. The motion was fully briefed and the last reply was filed on June 18, 2003. The Court has not yet ruled on this motion.

2. MesoSystems filed its Motion for Summary Judgment on May 16, 2003. The motion was fully briefed and the last reply was filed on June 12, 2003. The Court has not yet ruled on this motion.

3. The Motion to Dismiss and the Motion for Summary Judgment are dispositive motions.

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4. MesoSystems' suit against Seaba and Phillips for breach of contract in the Superior Court of the State of Washington, County of Benton, No. 02-2-02399-9 (the "Washington Lawsuit"), has been stayed due to Seaba and Phillips' argument that MesoSystems' claims in the Washington Lawsuit are claims "which have been or could have been asserted in [this cause]."

5. Despite MesoSystems' best efforts to settle this matter, including a settlement conference conducted by Magistrate Scott, the parties do not appear to be close to reaching a settlement.

6. Plaintiffs' repeated arguments in the Washington Lawsuit to stay that action and to allow this matter to proceed in New Mexico has precluded MesoSystems from moving forward with the Washington Lawsuit. Plaintiffs, therefore, appear amenable to an expedited resolution of the pending motions.

7. At this time, MesoSystems is on the brink of financial collapse, has reduced its workforce substantially, and has authorized its bankruptcy counsel to proceed with various pre-bankruptcy activities. In the meantime, an expedited outcome of the pending dispositive motions is a crucial element in MesoSystems' decision on how to proceed.

8. Opposing counsel was contacted regarding this motion, but did not respond.

WHEREFORE, Defendant urgently prays this Court expedite its rulings on Defendant's Motion to Dismiss Plaintiffs' Complaint and for Attorneys' Fees and Costs as a Sanction for Plaintiffs' Abuse of the Discovery Process and Defendant's Motion for

Summary Judgment, and for such other and further relief the Court deems just and proper.

Respectfully Submitted:

**BAUMAN, DOW, McINTOSH & LEÓN, P.C.**

By \_\_\_\_\_

  
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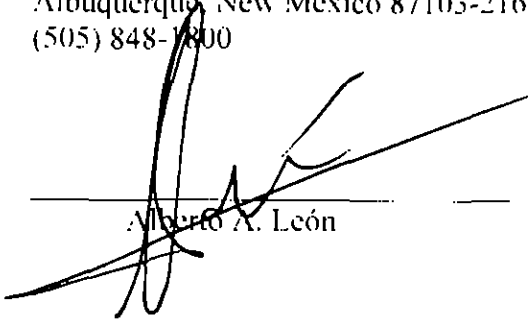
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

*delivered* I HEREBY CERTIFY that the foregoing Motion for Expedited Ruling was *hand-*  
~~mailed~~ to the following, on this 8th day of August, 2003.

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